



Natural Resources Conservation Service
One Credit Union Place, Suite 340
Harrisburg, PA 1700-2993

February 18, 2009

PENNSYLVANIA BULLETIN NO. PA 120-9-3

Subject: ADS -- Conservation Program Contract Administration Procedures

Purpose: To provide instruction to all Pennsylvania NRCS offices on new FY 2009 procedures and responsibilities for contract administration, including: Delegation of Authority to ASTC-FO's, field office activities for completing Annual Contract Reviews, and procedures for addressing non-compliance.

Background: Beginning in FY 2009 the three Assistant State Conservationists for Field Operations (ASTC-FO's) will be delegated the authority to serve as Contracting Officers (CO) for EQIP, WHIP, AMA, and CBWI conservation program contracts. This means they will approve all new contracts in 2009 and all contract modifications for prior year contracts. In addition, they will review and provide recommendation to State Conservationist on all requests for practice waivers, issues of non-compliance and other contracting issues.

FY 2009 Delegated Conservation Program Responsibilities:

In addition to the existing national policies in Part 440 – Conservation Program Manuals and CPM Part 512, the following duties have been delegated in Pennsylvania to the ASTC-FO's:

The Assistant State Conservationist for Field Operations (ASTC-FO) in NRCS Technical Center Offices will perform the following functions as outlined:

- Serve as the designee for the State Conservationist in matters related to signing contracts and contract modifications in accordance with other provisions of the EQIP, WHIP, AMA, and CBWI Manuals, this Pennsylvania Amendment, and CPM Part 512;
- Promote the active use of Local Work Groups and the State Technical Advisory Committee process;
- Coordinate staffing and field office management to accommodate successful installation of all contract items and timely completion of contracts;
- Review and assist with all EQIP appeals as requested by the ASTC-P;



- Perform peer review of samples of applications, application rankings, and contract proposals;
- Ensure that all application information is promptly and accurately entered into ProTracts;
- Evaluate program performance on an area basis;
- Review and provide recommendation to State Conservationist on all requests for practice waivers, issues of non-compliance and other contracting issues through the ASTC-P;
- Review and process all FO requests for contract cancellations and terminations according to established policy and procedures; and
- Carry out other NRCS responsibilities as delegated by the State Conservationist.

Completing Contract Reviews:

Annual Contract Reviews are required for all active conservation program contracts. The Designated Conservationist will review contract implementation with the CPC participant annually and record findings in the ProTracts Contract Review Module and in the CPC case file.

- (1) If all practices are applied as scheduled and other contract provisions are being followed, this finding will be documented in the ProTracts Contract Review Module and the Conservation Assistance Notes. Completion of Form NRCS-CPA-13 is not required for these contracts.
- (2) If the practice application is not on schedule, the NRCS representative will document the specific items which are delayed on Form NRCS-CPA-13 within the ProTracts Contract Review Module. The contract review will be signed electronically by the NRCS representative completing the review. When the NRCS representative is a person other than the Designated Conservationist (DC), both the reviewing representative and DC will electronically sign Form NRCS-CPA-13. A copy will be provided to the participant to communicate the need to implement the delayed contract items no later than one year after the originally planned year. A hard copy of the completed NRCS-CPA-13 will be placed in the CPC case file.

Be advised that ProTracts does not archive contract reviews, only the most recent form is stored in the database. A follow-up review will be required on Form NRCS-CPA-13 the following year. If the follow-up review indicates that delayed practices continue to be behind schedule, these items must be rescheduled on Form NRCS-CPA-1156 within the specific program contract period and limitations. Exception:

Refer to CPM-512 when participant fails to start an AMA, EQIP, WHIP, or CBWI practice within the first 12 months of the contract, as this results in non-compliance with the terms of the contract.

- (3) If the participant fails to implement the rescheduled items or if other contract provisions are not being met, the NRCS representative will initiate Form NRCS-LTP-153 to address non-compliance within the ProTracts Contract Review Module citing the specific contractual basis for the potential contract violation.

The DC will work with the participant(s) to resolve all issues and document all actions that need to be taken to complete the contract, including establishing a reasonable timeframe, not to exceed one year, for the participant to comply with the contract provisions and notification of the consequences of failure by the participant to remedy the potential contract violation. This document will be signed by the NRCS Approving Official, State Conservationist, or designee and the participant. Adverse actions of which the participant must be notified that may be taken by NRCS for a continuance of the potential violation include, but are not limited to, the following:

- (i) Contract termination.
 - (ii) Forfeiture of all rights to any payments under the contract.
 - (iii) Recovery of all previously paid financial assistance.
 - (iv) Assessment of liquidated damages (as allowed by applicable program regulation).
 - (v) Assessment of late payment interest on delinquent debts.
- (4) If the participant cannot or will not complete the contract obligations as previously agreed to on the Form NRCS-LTP-153, follow the procedure in section 512.57 to terminate the contract. Since contract termination is an adverse action, program participants must be offered appeal rights as described in 440-CPM, Part 510, Subpart B.
- (5) Elements that will be annually reviewed with CPC participants include the following:
- (i) Success of practices and systems completed to date.
 - (ii) Operation and maintenance of practices and systems.
 - (iii) Status of practices not completed.
 - (iv) Reasons for lack of progress.
 - (v) Need for revision of the conservation plan schedule of operations.
 - (vi) Description of any potential violations of the CPC.
 - (vii) Agreement on practices to be implemented next fiscal year.
 - (viii) Confirmation that participants still control all land under contract.

Addressing Non-Compliance with CPC participants

As described above -- If the participant fails to implement the rescheduled items or if other contract provisions are not being met, the NRCS representative will initiate Form NRCS-LTP-153 to address non-compliance within the ProTracts Contract Review Module citing the specific contractual basis for the potential contract violation.

In addition, PA supplemental instructions include that the Designated Conservationist will inform the ASTC-FO's in writing of the contract violation. The ASTC-FO will review the preparation of the NRCS-LTP-153 and discuss resolution of the contract violation with the Designated Conservationist and the CPC participant. The ASTC-FO will submit a Notice of Finding on the contract violation and make a recommendation to the State Conservationist on the matter. The State Conservationist will issue a formal letter to the CPC participant advising them of the non-compliance status and informing them on the possibility of contract termination, repayment of previous payments and liquidated damages if the non-compliance is not corrected. * See attached Non-Compliance sample letter.

Action: All field level managers, including ASTC-FO's, Supervisory District Conservationists and District Conservationists will review these new contract administration procedures and responsibilities with all field office employees and Conservation District Managers and ensure the procedures are followed.

/s/ Craig R. Derickson

CRAIG R. DERICKSON
State Conservationist

DIST. AE

United States Department of Agriculture



Natural Resources Conservation Service
One Credit Union Place, Suite 340
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(Notice of Contract Violation – remove)

DATE

(Name and address of participant)

Dear (participant name):

You are hereby notified that information has been received which indicates that a violation of your contract #_____ has been identified as follows:

Your non-compliance with the terms of the contract must be corrected or you will be subject to contract termination and repayment of previous payments, as well as liquidated damages. NRCS is interested in discussing appropriate methods to resolve the non-compliance issue and assisting your efforts to completing the contract components on schedule.

You may request a hearing with the Contract Officer to review your contract violation if such a request is made within 30 calendar days after receipt of this letter. Your request should be made to the office of the USDA Natural Resource Conservation Service, ATTN: Tom Jones, ASTC-FO, 213 Spring Street, Fort Dodge, PA 11789.

If you have any questions, please contact (<< insert name >>) at (<< insert contact information >>).

CRAIG R. DERICKSON
State Conservationist

cc: District Conservationist
Supervisory District Conservationist
ASTC-FO
Barry Frantz, ASTC-P, Harrisburg PA
AnneMarie Anderson, SAO, Harrisburg PA

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